

Rules and Directions for the Questioning of Suspects and the Taking of Statements



查問疑犯及 錄取口供的 規則及指示

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Questioning of Suspects and the Taking of Statements

**The test for the admissibility of a statement is that it has been given
voluntarily**

**Statements obtained by threats, torture, deceit, intimidation or “deals” are
not voluntary**

**These Rules are not rules of law but rules of practice.
They are administrative in nature and should be followed in a practical and
common sense way.**

These Rules do not affect the principles

- (a) That citizens have a duty to help a police officer to discover and apprehend offenders;
- (b) That police officers, otherwise than by arrest, cannot compel any person against his will to come to or remain in any police station;
- (c) That every person at any stage of an investigation should be able to communicate and to consult privately with a solicitor or barrister. This is so even if he is in custody, provided that in such a case no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice by his doing so;
- (d) That when a police officer who is making enquiries of any person about an offence has enough evidence to prefer a charge against that person for the offence, he should without delay cause that person to be charged or informed that he may be prosecuted for the offence;
- (e) That it is a fundamental condition of the admissibility in evidence against any person, equally of any oral answer given by that person to a question put by a police officer and of any statement made by that person, that it shall have been voluntary, in the sense that it has not been obtained from him by fear of prejudice or hope of advantage, exercised or held out by a person in authority, or by oppression.

The principle that statements must be voluntary is set out in paragraph (e) above. It is overriding and applies in all cases.

The Rules and Directions are a guide to all police officers conducting investigations on how questions may be asked and how such voluntary statements will be taken and recorded. If these Rules and Directions are not followed then any answers and statements might be excluded from the evidence in any subsequent criminal proceedings.

查問疑犯及錄取口供
的規則及指示

確定口供的可接納性是該口供是自願作出的
以威脅、酷刑、欺騙、恐嚇的手段或「協議」的形式
而錄取得的口供是非自願的口供
這些規則並非法律，而是慣常做法的規則，屬行政性質，
人員須以實際情況及普通常識引用規則

本規則並不影響下列原則

- (a) 市民有責任協助警務人員偵查及逮捕罪犯；
- (b) 除拘捕之外，警務人員不能強迫任何人違反意願前往或逗留在任何警署；
- (c) 任何人在調查期間應獲准獨自和律師或大律師聯絡及諮詢他們的意見。即使該人被拘留，他仍可以這樣做，只要不會對調查或執法造成不合理的延誤或阻礙；
- (d) 當警務人員就某罪行對任何人進行調查，並有足夠證據落案起訴該人，該人員須立即安排起訴，或告知該人他可能被控以某項罪名；
- (e) 任何人對警務人員向他提出的問題的口頭答覆，以及該人作出的任何口供，如要被接納為指控該人的證據，一個基本條件是這些答覆和口供並非在一名有權力的人威迫利誘之下作出，或被迫作出的。

上述第(e)段所述的原則，即口供必須是自願作出的，最為重要並適用於所有案件。

下列規則及指示可作為警務人員在進行調查工作時的指引，指示他們如何發問問題及如何錄取及記錄自願作出的口供。如沒有遵循此等規則及指示，則會令任何答覆及口供在其後的任何刑事訴訟中可能不被接納為證據。

RULES

RULE I

When a police officer is trying to discover whether, or by whom, an offence has been committed he is entitled to question any person, whether suspected or not, from whom he thinks that useful information may be obtained. This is so whether or not the person in question has been taken into custody so long as he has not been charged with the offence or informed that he may be prosecuted for it.

NOTE:

This rule upholds the common law principle that every citizen has a duty to help a police officer to discover offenders. It entitles the free questioning of any person, whether or not he has been taken into custody, so long as he has not been charged with the offence or told that he may be prosecuted for it. It enables questions to be asked about offences other than the offence for which the suspect is in custody. The record of what has been asked may be as important as the answers because it will show that a person had the opportunity to explain the matters at issue even if he declined to answer. There is a limit on such questioning as provided by Rule II.

RULE II

As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person or cause him to be cautioned before putting to him any questions or further questions, relating to that offence. The caution shall be in the following terms :

“You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence.”

When after being cautioned a person is being questioned, or elects to make a statement, a contemporaneous record shall be kept, so far as is practicable, of the time and place at which any such questioning or statement began and ended and of the persons present.

NOTE:

A group of persons who have had either the motive or the opportunity to commit a crime may all be suspected persons, but this is very different from having some evidence which would afford reasonable grounds for suspecting that one of them actually committed the crime. For example, a person may have been stabbed by one of a group of people. The group

規則

規則 I

當警務人員追查是否有人或誰人干犯罪行，他有權查問任何他認為可從中獲得有用資料的人士，不論該人是否涉嫌與罪行有關。只要仍未落案起訴該人，或仍未告知該人他可能被控以某項罪名，則不論該人是否被扣押，警務人員仍可這樣做。

註：

此規則確認普通法有關市民有責任協助警務人員偵查犯人，此規則授權警務人員隨意查問任何人，不論該人是否已被扣押，只要仍未落案起訴該人，或仍未告知該人他可能被控以某項罪名。此規則讓警務人員除查問與扣押疑犯罪行有關的問題外，亦可查問與其他罪行有關的問題。記錄所發問問題與記錄答覆同樣重要，因為即使接受查問的人拒絕回答問題，亦可顯示曾給予該人機會就正在討論的事情作解釋。規則 II 載明此等查問的限制。

規則 II

當警務人員有證據及合理理由懷疑任何人干犯罪行，便應先向該人施行警誡，才可進行問話或進一步查問。警誡詞如下：

「唔係是必要你講嘅？除非你自己想講喇，但係你所講嘅嘢，可能用筆寫低及用嚟做證供嘅。」

在施行警誡後，如向任何人問話或該人選擇作供，在可行情況下應盡快即時將開始及終止問話或作供的時間，地點及在場的人士記錄下來。

註：

一群人如有犯罪的目的或機會，則他們全都是可疑人士。但這與警務人員有證據而有合理理由懷疑其中一人是犯案者是有所分別的。例如，某人被一群人之中的其中一人用刀刺傷了。在最初，這群人全都是疑犯，並可根據規則 I 查問他們。但若隨

would initially all be suspects and could be questioned under Rule I. If the fingerprints of one suspect were found on the weapon and traces of the victims blood on his clothes that would be reasonable evidence of the actual commission of the crime. Once such evidence is known, the suspect must be cautioned with the words given above.

The caution informs the suspect that he may be in peril of prosecution, it reminds him of his 'right to silence' and, thirdly, it tends to help to show the voluntariness of any statement subsequently made.

Again a refusal to answer any or particular questions need not stop them being asked provided this is not oppressive. The record of what has been asked may be as important as the answers as it will show that a person had the opportunity to explain the matters at issue even if he declined to answer.

RULE III

- (a) Where a person is charged with or informed that he may be prosecuted for an offence he shall be cautioned in the following terms :

“Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.

- (b) It is only in exceptional cases that questions relating to the offence should be put to the accused person after he has been charged or informed that he may be prosecuted. Such questions may be put where they are necessary for the purpose of preventing or minimizing harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement.

Before any such questions are put the accused should be cautioned in these terms :

“I wish to put some questions to you about the offence with which you have been charged (or about the offence for which you may be prosecuted). You are not obliged to answer any of these questions, but if you do the questions and answers will be taken down in writing and may be given in evidence.”

後在武器上發現其中一名疑犯的指模而他的衣服上又沾有受害人的血跡，警方便有合理證據證明他是犯案者。在獲知此等證據後，須以上述詞句警誡疑犯。

這種警誡使疑犯知道他可能被起訴，提醒疑犯他有「緘默權」及第三，顯示其後所供述的任何口供是自願作出的。

與前所述一樣，即使疑犯拒絕回答任何問題或其中一條問題，亦應照樣向他發問，但並非以強迫手段。記錄所發問問題與記錄答覆同樣重要，因為即使接受查問的人拒絕回答問題，亦可顯示曾給予該人機會就正在討論的事情作解釋。

規則 III

(a) 如落案起訴任何人或告知該人他可能被控某一項罪行，應用下述警誡詞：

「你想唔想講嘢？唔係是必要你講嘅，除非你自己想講喇，但無論你講乜嘢，都會用筆寫低，可能用嚟做證供嘅。」

(b) 除了在特殊情況外，落案起訴任何人，或告知該人他可能被檢控後，不得向被檢控的人發問與案有關的問題。如為了防止或減少對其他人或公眾造成損失，或澄清先前的答覆或口供不清楚的地方，才可發問問題。

在向被檢控的人發問問題之前，應用以下警誡詞：

「我而家有啲問題問你，係關於你被落案嘅控罪（或者關於你可能被控的罪行），唔係是必要你回答呢啲問題，但如果你回答的話，呢啲問題同答覆會用筆寫低，可能用嚟做證供嘅。」

Any questions put and answers given relating to the offence must be contemporaneously recorded in full and the record signed by that person or if he refuses by the interrogating officer.

- (c) When such a person is being questioned, or elects to make a statement, a contemporaneous record shall be kept, so far as is practicable of the time and place at which any questioning or statement began and ended and of the persons present.

NOTE:

Rule III (a) sets out the caution to be used when a person is charged or informed that he may be prosecuted for an offence.

Rules III (b) and (c) deal with questions relating to the Offence that may be put to a suspect after he has been charged or informed that he may be prosecuted. The words 'relating to the Offence' imply that questioning of the accused person about other matters, not related to that offence, is permitted. Questions relating to the Offence can be put only in exceptional cases and the questions must be necessary for the purpose of preventing or minimizing harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement. Officers should refer to Rule V on the compilation of the 'Record'.

Rule III (a) and Administrative Direction 7(a) outline the 'Charging Procedure'. A Police Form 'Statement in answer to charge' (Pol 60 Rev 7/2000) exists for use.

Written Statements

RULE IV

All written statements made after caution shall be taken in the following manner:

- (a) If a person says that he wants to make a statement he shall be told that it is intended to make a written record of what he says. He shall always be asked whether he wishes to write down himself what he wants to say; if he says that he cannot write or that he would like someone to write it for him, a police officer may offer to write the statement for him. If he accepts the offer the police officer shall, before starting, ask the person making the statement to sign, or make his mark to, the following:

所有與控罪有關的問題及答覆須即時全部記錄下來，該人須在紀錄上簽署。如該人拒絕簽署，則由查問的人員簽署。

- (c) 當盤問該人或該人選擇作供，在可行情況下應盡快即時將開始及終止查問或作供的時間，地點及在場的人士記錄下來。

註：

規則第 III(a) 條列明在落案起訴任何人或告知該人他可能被控某一項罪行時應用的警誡詞。

規則第 III(b) 及 (c) 條述及在落案起訴一可疑人士或告知該人他可能被檢控後所發問的與案有關的問題。「與案有關」一語暗示警方是可以向被告提出與案無關的其他問題的。只有在特殊情況下才能提出與案有關的問題，而發問該等問題的目的須是為了防止或減少對其他人或公眾造成損害或損失，或澄清先前的答覆或口供不清楚的地方。警務人員在作「記錄」時須參考規則第 V 條。

規則第 III(a) 條及行政指示第 7(a) 條概述「落案程序」。警方現已採用一份新的「答辯控罪陳述書」(Pol 60 Rev 7/2000)。

書面口供

規則 IV

在施行警誡後，所有書面口供須以下列方式錄取：

- (a) 如任何人說想錄口供，便應告訴他這是指將他的說話書面記錄下來，警務人員應詢問該人是否想親自將說話記錄下來；如該人表示不懂書寫或想他人代為筆錄，警務人員可建議代他筆錄口供。如該人接納建議，在開始錄取口供前，警務人員可要求錄口供的人在下述聲明旁簽署或作記：

"I,, wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence."

- (b) Any person writing his own statement shall be allowed to do so without any prompting as distinct from indicating to him what matters are material.
- (c) The person making the statement, if he is going to write it himself, shall be asked to write out and sign before writing what he wants to say, or before any questioning, the following:

"I make this statement of my own free will. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence."

- (d) Whenever a police officer writes the statement he shall take down the exact words spoken by the person making the statement, without putting any questions other than such as may be needed to make the statement coherent, intelligible and relevant to the material matters. He shall not prompt him.
- (e) When the writing of a statement by a police officer is finished the person making it shall be asked to read it and to make any corrections, alterations, or additions he wishes. When he has finished reading it he shall be asked to write and sign or make his mark on the following Certificate at the end of the statement :

"I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will."

- (f) If the person who has made a statement refuses to read it or to write the above mentioned Certificate at the end of it or to sign it, the senior police officer present shall record on the statement itself, and in the presence if the person making it, what has happened. If the person making the statement cannot read, or refuses to read it, the officer who has taken it down shall read it over to him and ask him whether he would like to correct, alter or add anything to what has been recorded and to put his signature or make his mark at the end. The police officer shall then certify on the statement itself what he has done.

NOTE:

Rule IV deals with written statements made after caution and sets out the procedure to be adopted in taking such statements. If a person says that he

「我，.....，願意作供，我希望有人替我筆錄我所講的說話。
我知道我不一定要講，除非我自願講，而我所講的說話可能會用作證供。」

- (b) 警務人員須讓該人自行筆錄口供，除了向他指出那些事情是重要的，不應引導該人。
- (c) 如該人自行筆錄口供，在他筆錄之前或在發問問題之前，須要求該人寫出下列聲明及在旁簽署

「我自願錄取這份口供。我知道我不一定要講，除非
我自願講，而我所講的說話可能會用作證供。」

- (d) 當警務人員錄取口供時，他須將供述人的說話正確筆錄下來，不應發問任何問題及不應引導該人答話，除非是為了使口供前後一致、易於理解或該等問題是與主要事情有關的。
- (e) 當警務人員錄完口供後，須請供述人閱讀該份口供及作任何修改、更正或增補。當供述人閱讀過該份口供後，警務人員須請供述人在口供的結尾寫出下列聲明，並在旁簽署或作記：

「我已閱讀過這份口供，我知道我可隨意作任何修改、更正或
增補。這份口供內容全部屬實，且我是自願作供的。」

- (f) 如供述人拒絕閱讀該口供、或在口供的結尾寫上以上的聲明、或在口供上簽署，在場的高級警務人員須在供述人面前將所發生的事情記錄在該份口供上。如供述人不識字或拒絕閱讀該份口供，筆錄口供的人員須向供述人複讀該份口供，並詢問供述人是否想在口供上作任何修改、更正或增補，然後請他在口供結尾部份簽署或作記。警務人員隨後須在口供上就所做事情作證。

註：

規則第 IV 條是關於施行警誡後錄取書面口供及列明錄取此等口供的程序。如任何

wants to make a statement he shall be told that it is intended to make a written record of what he says and asked whether he wishes to write down himself what he wants to save.

Generally, a decision by a person to make a statement will come during the course of an interview. The procedures for recording interviews are detailed in Rule V.

Interview Records

RULE V

The questioning of suspects shall be recorded in the following manner :

- (a) Accurate records must be made of each interview with a person suspected of an offence.
- (b) If an interview with a suspect takes place in a police station, or other premises providing reasonable privacy and facilities for such interview, a contemporaneous written record of the interview must be made. The only exception to this rule will be where equipment is available to record the interview by mechanical means.
- (c) Where a contemporaneous written record of an interview has been made, it must immediately after completion be read over to the suspect and he should be given the opportunity to read it. The suspect must also be given an opportunity to make any corrections alterations or additions he wishes to the record, and afterwards he should be invited to write and sign the following Certificate at the end of the record:

“I,have read the above record of interview, consisting of pages. It is an accurate record of questions asked, and answers I provided.

(Signed).

If the suspect cannot read, or refuses to read the record, or to write and sign the Certificate, the senior officer present shall record within the record of interview, and in the presence of the suspect, what has happened. Nothing recorded in a record of interview shall be obliterated by either the interviewing officer or the suspect. The record must accurately reflect the total of what occurred during the interview.

人說想作供，便應告訴他他的說話將會用書面記錄下來及詢問他是否想自己將說話記錄下來。

被接見人士通常會在會面期間決定作供。規則 V 載有記錄會面詳情的詳細程序。

會面紀錄

規則 V

警務人員須以下列方式將查問疑犯的詳情記錄下來：

- (a) 在每次會見涉嫌干犯某罪行的人時須作出準確的紀錄。
- (b) 如在警署或其他不受干擾和有合理設施的樓宇會見疑犯，須即時以書面記錄會見的詳情。這項規則的唯一例外情況，是除非可以利用設備以機械方式將會見詳情記錄下來。
- (c) 如已即時以書面記錄會面的詳情，在記錄完畢後，須立即向疑犯複讀一遍，及讓疑犯閱讀該份紀錄及在紀錄上作任何修改、更正或增補。然後須請疑犯在紀錄的結尾寫上下列聲明及在旁簽署：

「我，.....，已閱讀過此份會面紀錄，共.....頁紙。
這是所問問題及我的答覆的準確紀錄。」

(簽署)

如疑犯不識字，或拒絕閱讀該紀錄、或寫上以上聲明，並在旁簽署，在場的高級警務人員須在疑犯面前，將所發生的事情記錄在會面紀錄上。會見人員或疑犯均不得在會面紀錄上刪塗任何文字，紀錄必須準確反映在會面時所發生的事情。

NOTE:

Rule V is straight-forward and its only purpose is to emphasize the necessity of recording the details of each interview in accordance with Rule II and Rule III and the procedure to be observed.

A Police Form - 'Record of Interview' (Pol 857) has been introduced for this purpose and the procedures for using this form and for recording interviews and cautioned statements in general are specified in the manuals and related Orders.

RULE VI

If at any time after a person has been charged with, or has been informed that he may be prosecuted for an offence, a police officer wishes to bring to the notice of that person any written statement made by, or record of an interview with, another person, who in respect of the same offence has also been charged or informed that he may be prosecuted, he shall hand to that person a true copy of such written statement or record of interview, but nothing shall be said or done to invite any reply or comment. If that person says that he would like to make a statement in reply, or starts to say something, he shall at once be cautioned or further cautioned as prescribed by Rule III(a).

NOTE:

The rule states clearly that where two or more persons are charged with the same offence there is no need to serve one accused person with a copy of the statement made by, or record of interview with, another accused person unless the police wish to do so.

The cross-serving of statements or records of interview of persons prior to charging will follow the same procedure i.e. nothing shall be said or done to invite any reply or comment but if the recipient says that he would like to make a statement in reply, or starts to say something, he shall at once be cautioned and any statement recorded.

註：

規則第 V 條直接明確，它唯一的目的是強調必須遵照規則第 II 條及第 III 條把每一次會面的詳情記錄下來，以及須遵循的程序。

警方因而採用一份「會面紀錄」表格 (PoI.857)，使用此表格的程序以及記錄會面詳情和警誡口供的一般程序載於有關程序手冊和相關的總部通令。

規則 VI

當任何人因干犯某項罪行而被落案起訴，或獲告知可能被檢控，警務人員如擬將一份由另一名同案被落案起訴、或獲告知可能被檢控的人的書面口供或會面紀錄給該人閱讀，須將該書面口供或會面紀錄的真確副本給予該人閱讀，不應講任何說話，亦不須請該人給予答覆或意見。如該人表示有意作供答覆或開始講話，須立即根據規則第 III(a) 條施行警誡或進一步警誡。

註：

本規則清楚列明倘有兩名或以上同案被告被落案控告同一罪項，警方不必把一名同案被告的口供或會面紀錄副本給另一名被告閱讀，除非警方想這樣做。

在落案起訴前，如警方將疑犯的口供或會面紀錄給予同案另一名疑犯閱讀，應按同樣的程序進行，即不應講任何說話或採取任何行動要求收取口供或會面紀錄的人給予答覆或意見。如該人表示有意作供答覆或開始講話，須立即向他施行警誡，並把任何口供記錄下來。

RULE VII

Persons other than police officers charged with the duty of investigating offences or charging offenders shall, so far as may be practicable, comply with these Rules.

NOTE:

This extends the application of the rules to all other law enforcement agencies, such as ICAC, C&E and Immigration Department.

規則 VII

除了警務人員外，負責執行調查控罪職務或落案起訴罪犯的其他人員，在可行情況下，須盡可能遵循此等規則。

註：

此規則將引用上述規則的範圍擴展至所有其他執法機關，例如廉政公署、海關及入境事務處。

DIRECTIONS

1. Procedure generally

- (a) Police officers' notebooks should be used for taking statements only when no other stationery is available.
- (b) When a person is being questioned or elects to make a statement, a record should be kept of the time or times at which, during the questioning or making of a statement, there were intervals or refreshment was taken. The nature of the refreshment should be noted. In no circumstances should alcoholic drink be given.
- (c) In writing down a statement, the words used should not be translated into "official" vocabulary; this may give a misleading impression of the genuineness of the statement.
- (d) Care should be taken to avoid any suggestion that the person's answers can only be used in evidence against him, as this may prevent an innocent person making a statement which might help to clear him of the charge.

2. Record of interview

Rule II and Rule III(c) demand that a record should be kept of the following matters:

- (a) when, after being cautioned in accordance with Rule II, the person is being questioned or elects to make a statement - of the time and place at which any such questioning began and ended and of the persons present;
- (b) when, after being cautioned in accordance with Rule III(a) or (b), a person is being questioned or elects to make a statement - of the time and place at which any questioning or statement began and ended and of the persons present.

In addition to the records required by these Rules, full records of the following matters should additionally be kept:

- (i) of the time or times at which cautions were given, and
- (ii) of the time when a charge was made and/or the person was arrested, and
- (iii) of the matters referred to in paragraph I(b) above.

指示

1. 一般程序

- (a) 只有在無其他文具可用的情況下，才可把口供記錄在警務人員的記事冊上。
- (b) 當盤問某人或該人選擇作供時，應把在盤問或錄取口供期間暫停或食用茶點的時間記錄下來，同時要註明茶點的性質。無論如何不可以提供含酒精的飲品。
- (c) 在筆錄口供時，不應把供述人所用的字眼轉為「正式」的書面語，因為這樣會令人對口供的真確性產生疑問。
- (d) 說話應盡量小心，以免供述人誤以為對警方的答話只會用作對自己不利的證供，這樣可能令無辜者拒絕作出可能有助他洗脫罪名的口供。

2. 會面紀錄

規則第 II 及 III(c) 條規定須保留關於以下事項的紀錄：

- (a) 在根據規則第 II 條警誡有關人士後，在盤問該人或該人選擇作供時，須將開始及終止問話的時間、地點和當時在場的人士記錄下來；
- (b) 在根據規則第 III(a) 或(b) 條警誡一名人士後，在盤問該人或該人選擇作供時，須將開始及終止問話或作供的時間、地點和當時在場的人士記錄下來。

除了這些規則所規定的紀錄之外，還須保存關於以下事項的詳盡紀錄：

- (i) 施行警誡的時間，及
- (ii) 落案起訴及／或拘捕有關人士的時間，及
- (iii) 以上第 1(b) 段所提及的事項。

If two or more police officers are present when the questions are being put or the statement made, the records made should be countersigned by the other officers present.

3. Interviews At Police Station

When a suspect is questioned in a police station, or other premises affording reasonable privacy and facilities for interview, a contemporaneous record must be made of all interviews conducted there.

4. Comfort and Refreshment

Reasonable arrangements should be made for the comfort and refreshment of persons being questioned. Whenever practicable both the person being questioned or making a statement and the officers asking the questions or taking the statement should be seated.

5. Questioning of Children and Young Persons

So far as practicable, children and young persons under the age of 16 years (whether suspected of crime or not) should only be interviewed in the presence of a parent or guardian, or, in their absence, some person who is not a police officer and is of the same sex as the child. A child or young person should not be arrested, or even interviewed, at school if such action can possibly be avoided. Where it is found essential to conduct the interview at school, this should be done only with the consent, and in the presence, of the head teacher, or his nominee.

NOTE: There may be occasions when this is not always practicable. Examples are when:-

- (a) a child or young person who is arrested during the commission of an offence, or on chance encounter, and it is necessary to interview him/her immediately;
- (b) the parent or guardian cannot be located, or refuses to attend the place where the interview will take place;
- (c) a delay in locating the parents or guardian of the child or young person may result in delay in the commencement of the interview to such an extent the delay itself could be the subject of criticism should attempts later be made to tender any confessional statement as an exhibit;

倘在進行發問或錄取口供時有兩名或以上警務人員在場的話，則這些在場的其他人員須在紀錄上加簽。

3. 在警署進行會面

當一名疑犯在警署或其他不受干擾和有合理設施的樓宇接受問話時，須即時將所有在該處進行的會面記錄下來。

4. 舒適及茶點

應作出合理的安排，使接受問話的人覺得舒適，並可獲提供茶點。如果可行的話，應讓發問或錄取口供的警務人員和接受問話或供述口供的人士都坐下來。

5. 查問兒童及青少年

警務人員如要接見兒童或 16 歲以下的青少年（不論是否涉嫌犯罪），在可行情況下應盡量安排一名家長或監護人在場，不然，亦應在一名非警務人員並與該名兒童或青少年性別相同的人士面前會面。應盡量避免在學校拘捕或甚至祇是會見兒童或青少年。如果必須在學校進行會面，仍應先獲得校長或他授權的人同意，並須在他們面前進行。

註：在有些情況下，上述安排未必經常可行，其中可能包括下述情況：

- (a) 警方在該名兒童或青少年犯案的一刻或偶然間碰上而當場將他逮捕，需要立刻查問經過；
- (b) 未能聯絡到其父母或監護人，或其父母或監護人拒絕前往警方進行會見的地方；
- (c) 延遲聯絡該名兒童或青少年的父母或監護人會拖展展開查問的時間，以致日後警方如試行將兒童或青少年的任何招認口供呈堂作證時，可能因延誤查問而遭受指摘；

- (d) a parent or guardian may be a party to the offence, e.g. incest, cruelty to child; and
- (e) difficulty may be experienced in locating an appropriate adult of 18 years or over and of the same sex as the person to be interviewed and who may have an interest in the welfare of the child or young person, but who is neither a police officer nor a civilian employed by the Police.

The officer in charge of a case may authorise the interview of a child or young person under 16 years of age to take place without parent/guardian or other appropriate adult present providing the full circumstances surrounding the interview and the actual recording of any statement/record of interview are recorded in the notebook of the said officer detailing the attempts made to locate persons responsible for the child or young person, and the reasons for the decision to proceed at that time.

Where parents, guardians, or appropriate adults attend interviews of young persons under 16 years of age, cognizance should be taken of any possible prejudice to the case and later tests of admissibility of any statement taken. The officer recording the statement should annotate thereon words to the effect that the statement was recorded in the presence of a named parent/guardian/other party and upon conclusion invite the witness to read over and sign the statement. Should this meet with refusal, the officer is to record on the statement that his/her invitation has been refused.

A child or young person aged under 16 years should not be arrested, or interviewed at his/her school if such action can possibly be avoided. Where it is found essential to conduct the interview at school, this should be done only with the consent and in the presence of the head teacher or his nominee.

The officer in charge of a case must again record full written reasons for arresting or interviewing a child or young person under 16 years at his/her school and be prepared to support these reasons at any later hearing.

A cautioned statement from a child or young person arrested late at night or in the early hours of the morning does not have to be taken immediately, unless a delay would cause undue hindrance to the furtherance of justice. In all cases, where a child or young person is arrested late at night or in the early hours of the morning, the officer in charge of a case should give careful consideration to whether it would be more advantageous to take the statement at a later time in order to ensure that it is not made inadmissible by the court.

- (d) 其父母或監護人可能是被控一方，例如被控以亂倫或虐待兒童罪；及
- (e) 警方在物色一名年齡在 **18 歲**或以上、與被接見人的性別相同、並非警務人員或受僱於警方的文職人員、而又會關心該名兒童或青少年的幸福的適當成人，可能遭遇困難。

案件主管可授權批准與 **16 歲**以下的兒童或青少年會面時無父母／監護人或其他適當成人在場，但會面的詳細情形以及實際錄取口供的經過／會面的記錄必須記錄在上述人員的記事冊內、詳細說明曾經試行找尋負責該名兒童或青少年的人士，以及決定於當時展開調查工作的原因。

倘在其父母／監護人或其他適當成人的陪同下接見 **16 歲**以下的青少年，應注意此事對該案及日後對任何口供可否接納為證據的測試並未構成不利影響。錄取口供的人員應在口供上寫明該份口供是在某名父母／監護人／其他人士的面前記錄，最後亦曾要求證人將口供複讀及簽署。如要求遭拒絕，該名人員須在口供內說明其要求被拒。

警務人員應盡量避免在學校內拘捕或會見 **16 歲**以下的兒童或青少年。如果必須在學校進行會面，仍應先獲得校長或他授權的人同意，並須在他們面前進行。

案件主管亦須詳細寫明在學校內拘捕或會見 **16 歲**以下的兒童或青少年的原因，並準備在日後任何聆訊中提供支持理由。

倘在深夜或清晨拘捕一名兒童或青少年，不用即時替其錄取警誡口供，除非稍作拖延便會對維持公正造成不當的妨礙。在所有的情況下，倘在深夜或清晨拘捕一名兒童或青少年，案件主管應謹慎考慮稍遲才錄取口供是否較好，以確保口供不會不獲法庭接納為證據。

6. Statements in Languages Other Than English

In the case of a person making a statement or answering questions in a language other than English:

- (a) Whenever possible all interviews should be conducted in the mother tongue of the suspect unless he chooses, or consents, to use another language in which he is obviously proficient.
- (b) The statement or record of interview should be recorded in the language used by the person making the statement or answering the questions.
- (c) A certified English translation should be made in due course and be proved as an exhibit with the Original statement or record of interview.
- (d) The person making the statement or answering questions should sign the statement or record of interview. Apart from the question of apparent unfairness, to obtain the signature of a suspect to an English translation of what he said in another language can have little or no value as evidence if the suspect disputes the accuracy of this record of his statement or record of interview.

NOTE:

'Statements taken from Foreign Nationals'

In order to ensure the validity of any statement (whether cautioned or otherwise) recorded from a foreign national or from a person who does not share a common language with the interviewer, the following rules are to apply:

- (a) whenever possible, all interviews should be conducted in the mother tongue of the interviewee unless he chooses to use another language in which he is proficient;
- (b) any statement should be recorded in the language used by the interviewee;
- (c) statements from Chinese persons should be recorded in Chinese characters using the interviewee's native dialect unless he chooses to use another dialect in which he is proficient, and the dialect so used should be stated in the statement;

6. 以英文以外的語言錄取口供

如一名人士以英文以外的語言作供或回答問題，則：

- (a) 除非疑犯選擇或同意使用另一種顯然是他精通的語言，否則所有會面都應盡可能使用他的母語進行。
- (b) 應以供述口供或回答問話的人士所使用的語言來錄取口供或書寫會面紀錄。
- (c) 應隨後取備口供或會面紀錄的經認證英文譯本，與原本錄取的口供或會面紀錄一併呈堂作證。
- (d) 供述口供或回答問話的人士應在口供或會面紀錄上簽署。當疑犯用另一種語言說的話譯成英文後，假如他認為譯文並非他的口供或會面紀錄的準確紀錄，即使要求他在譯文署名，亦無證供價值或證供價值不大，而且顯然對疑犯並不公平。

註：

向外國國民錄取口供

如錄取口供的人為外國國民或其所操語言與會見人員不同，為確保所錄取的任何口供（不論是否屬警誡口供）有效，警務人員須遵守下列規則：

- (a) 除非被會見人士選擇使用另一種他精通的語言，否則所有會見都應盡可能使用他的母語進行；
- (b) 應以被會見人士所使用的語文錄取口供；
- (c) 為中國人錄取口供時，除非被會見人士選擇使用另一種他精通的方言，否則，應以被會見人士所使用的方言用中文書寫，並在口供內註明所使用的方言；

- (d) when necessary an interpreter should be obtained who will record any statement in the language and dialect used by the interviewee;
- (e) where a statement is recorded in a language other than English, a translation may be produced as required;
- (f) a certified English translation should be made of all statement recorded in a language other than English which may be produced as evidence in a court in Hong Kong. and
- (g) a person interpreting a statement will make a confirmatory statement to that effect should circumstance dictate.

Statements Taken From Mentally Handicapped Persons

As far as practicable any person suspected or known to be suffering from a mental disorder, whether suspected of a crime or not, should only be interviewed or have a statement recorded from them in the presence of one of the following appropriate adults

- (a) a relative, guardian or other person responsible for his care or custody
- (b) someone who has experience of dealing with mentally disordered or handicapped persons but who is not a police officer nor employed by the police, such as a Social Worker; or
- (c) failing either of the above, some other responsible adult who is neither a police officer nor employed by Police.

The appropriate adult should be invited to read over and sign any statement made by the interviewee in their presence. Any refusal to sign should be recorded on the statement by the interviewing officer.

If an officer of the rank of Superintendent or above considers that any delay in an interview of a person suspected to be suffering from a mental disorder will involve an immediate risk of harm to persons or serious damage to property, then he may authorize a person's interview in the absence of an appropriate adult. Any such interview should desist once the immediate risk has been averted.

- (d) 如有需要，應透過傳譯員以被會見人士所使用的語文或方言來錄取口供；
- (e) 如口供是以英文以外的語文錄取，在有需要時應附上一份譯本；
- (f) 任何以英文以外的語文錄取的口供，應提供其認證英文譯本，才可呈遞香港法庭作為證據；及
- (g) 任何在錄取口供時作傳譯的人，應按情況所需作供證實有關事項。

為弱智人士錄取口供

警務人員接見任何懷疑為或已知為精神錯亂的人士或為其錄取口供時，不論其涉嫌犯罪與否，應盡量安排下列其中一名合適的成人在場：

- (a) 一名親人、監護人或其他負責照顧或看守他的人；
- (b) 一名對處理精神錯亂或弱智人士有經驗的人，(但不能是警務人員或是受僱於警方的人)，例如社會工作者；或
- (c) 如果未能安排上述人士在場的話，亦須有其他可負責的成人，但不能是警務人員或是受僱於警方的人。

替被會見人士錄好口供後，警方應請錄口供時在場的有關成人閱讀一遍並加以簽署。如果他拒絕簽署，會見人員應把拒簽一事記錄在口供上。

一名警司或以上職級的人員倘認為押後與該名被疑為精神錯亂的人士的會面，可能會有即時的危險，足以引致有人受傷或財物嚴重受損的話；可授權在沒有適當成人在場的情況下會見該名人士。但上面所述的即時危險一旦消除，便應停止進行任何此等會見。

Statements Taken From Hearing Impaired Persons

When a statement is required from a hearing impaired person (deaf and perhaps dumb) either as a witness, victim or suspect in a Police investigation, the OC Case should consider the need for the services of a Sign Language Interpreter.

In cases where the person is not a suspect, it may suffice, and in fact may well be desirable in the first instance, for a friend or relative who normally communicates with the person to be present, both to put the person at ease as well as to interpret. In serious cases, where the victims or witness's account is particularly pertinent to the case, consideration should be given to having a Sign Language Interpreter present.

In cases where the hearing impaired person is either an arrested person or is suspected of having committed a crime, the presence of a Sign Language Interpreter is essential both to assist in questioning and recording any cautioned statement and additionally to testify as a witness at any subsequent court proceedings.

Where the hearing impaired person is literate, an interview can be conducted in writing. Any person may be permitted to write their own statement, subject to the appropriate caution being applied to the statement and signed if the person is a suspect.

Where a Sign Language Interpreter is required, the respective Regional Command and Control Centre (RCCC) should be contacted by telephone. Each RCCC maintains a list of approved Sign Language Interpreters available for call out. Employment of Sign Language Interpreters and payment procedures are governed by HQO No. 6 of 2003. Current rates of payment should be ascertained from Senior Treasury Accountant Financial Control at Police Headquarters when processing claims for payment.

7. Supply to Accused Persons of Written Statement of Charge(s)

The following procedure should be adopted whenever a charge is preferred against a person arrested without warrant for any offence: -

- (a) The accused person should forthwith be given a written notice containing a copy of the entry in the charge sheet giving particulars of the offence with which he is charged. So far as possible, the particulars of the charge should be stated in simple language so that the accused person may understand it, but they should also show clearly the precise offense in law with which he is charged. Where the offence charged is a

向失聰人士錄取口供

如警方在調查案件時，有需要向失聰人士（聾及也許是啞）錄取口供，不論他是證人、受害人或疑犯，案件主管都應考慮聘請手語傳譯員協助。

若該人並不是疑犯，則首先由通常與該人溝通的一位朋友或親人在場陪同已經足夠；而事實上，這樣也許是更佳的做法，因為該朋友或親人不但能使他輕鬆自如，而且還能擔任傳譯。在嚴重的案件中，若受害者或證人的口供對該案件尤關重要，則應考慮請手語傳譯員協助。

若失聰人士是被捕人士或懷疑是犯了罪行的人，則必須請手語傳譯員在場，以協助問話及記錄任何警誡口供，並在日後法庭審訊時出任證人。

若失聰人士不是文盲，會見可以書面形式進行。任何人可書寫自己的口供，但人員必須作出適當的警誡，以及如果作供的人是疑犯，則他須在證供上簽署。

若需要手語傳譯員協助，應致電給有關的總區指揮及控制中心。每個總區指揮及控制中心都備有一份隨時候命出勤的認可手語傳譯員名單。僱用手語傳譯員及付款程序在 2003 年總部通令第 6 號中訂明。現時的薪酬可在申領款項時向警察總部高級庫務會計師（財務監管）查詢確定。

7. 把起訴書送交被告

倘在無手令的情況下拘捕一名觸犯任何罪行的人士並對他提出起訴，應當採取以下程序：

- (a) 應立即把書面通知給予被告，通知應包括控訴書上所載的內容，使他得知被控罪行的詳情。控罪的詳情應盡量用淺白的語文寫出，令被告能夠明白，但同時

statutory one, it should be sufficient for the latter purpose to quote the section of the statute which created the offence.

The written notice should include some statement on the lines of the caution given orally to the accused person in accordance with the Rules after a charge has been preferred. The form of notice should begin with the following words:

“You are charged with the offence(s) shown below. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.”

- (b) Once the accused person has appeared before the court, it is not necessary to serve him with a written notice of any further charges which may be preferred. If, however, the police decide, before he has appeared before a court, to modify the charge or to prefer further charges, it is desirable that the person concerned should be formally charged with the further offence and given a written copy of the charge as soon as it is possible to do so having regard to the particular circumstances of the case. If the accused person has then been released on bail, it may not always be practicable or reasonable to prefer the new charge at once, and in cases where he is due to surrender to his bail within forty-eight hours, or in other cases of difficulty, it will be sufficient for him to be formally charged with the further offence and served with a written notice of the charge after he has surrendered to his bail and before he appears before the court.

NOTE: This Direction relates to Rule III (a) and should be read with the foregoing.

8. Facilities for Defence

- (a) Provided that no unreasonable delay or hindrance is reasonably likely to be caused to the processes of investigation or the administration of justice:
 - (i) A person in custody, or present with the police and under investigation by them, should be allowed to speak on the telephone to his friends and consult and communicate privately, whether in person or in writing or on the telephone, with a solicitor or barrister. He shall be provided on request with a current list of solicitors provided by the Law Society.

應清楚說明在法律上他被控的正確罪名。如果被控的罪行是法定罪行的話，則可直接引錄訂立該項罪名的法規條文。

書面通知應包括在提出起訴時根據規則向被告口頭作出的警誡句語。通知的形式應以下列的句語開始：

「你想唔想講嘢？唔係是必要你講嘅，除非你自己想講喇，但無論你講乜嘢，都會用筆寫低，可能用嚟做證供嘅。」

- (b) 如果被告曾經出庭應訊，便不需把可能提出任何加控罪項的書面通知送交他。但倘若警方決定在被告出庭之前修改或增加控罪，便應視乎案件的個別情況，對有關人士正式控以其他的罪項，並盡快把控訴書交給他。如果被告當時已獲保釋，立即提出加控罪項可能未必可行或不適當。倘該被告將會在 **48** 小時內保釋期滿報到，又或者在其他有問題的情況下，只要在被告保釋期滿報到後及出庭應訊前，正式控以其他的罪項，並將有關該控罪的書面通知送交予被告即可。

註：此指示與規則 III(a) 有關連。閱讀此指示時，應一併參閱規則 III(a)。

8. 答辯

- (a) 只要不太可能對調查過程或執法造成不合理的延誤或阻礙：

- (i) 應准許在押人士或和警方在一起並接受調查的人士用電話與朋友通話、及親身或以書面或用電話獨自諮詢及聯絡律師或大律師；並須應他的要求向他提供律師會最新的律師名單。

- (ii) A person in custody, or present with the police and under investigation by them, should be allowed to have a solicitor or barrister present to advise him at any interview between that person and a police officer.
- (iii) A solicitor or barrister claiming to have been instructed by a third party to act on behalf of a person in custody, or present with the police and under investigation by them, should be allowed to communicate privately with that person, unless the person states, in the presence of only the requesting lawyer and an independent officer not below the rank of inspector, or a sergeant if an inspector is not available, that he does not wish to consult with the lawyer concerned.
- (iv) The letters of a person in custody, or present with the police and under investigation by them, should be sent by post or otherwise with the least possible delay.
- (v) A person who has made a cautioned statement or has answered questions under caution is entitled to a copy of such statement or record of interview and this should be supplied as soon as possible after each interview. The only exception is where hindrance is reasonably likely to be caused to the administration of justice.

If it is decided to deny a person a copy of his cautioned statement or record of interview, the reasons for this decision must be fully recorded, either within detention records or the investigating officer's notebook. In such circumstances, no further statements should be obtained and no further interviews should be conducted with that person until a copy of the cautioned statement or record of interview has been made available. A refusal must not continue beyond the point where the person is formally charged. To deny a person a copy of his cautioned statement or record of interviews is a serious matter and such action may be the subject of enquiry at his subsequent trial.

- (b) A police officer may only delay or prevent communication between a solicitor or barrister and a person in custody, or present with the police and under investigation by them, if he has reasonable grounds for believing that unreasonable delay, or hindrance to the processes of investigation or to the administration of justice, is likely to be caused if such communication is permitted. The fact that a solicitor or barrister might advise that person not to make, or continue to make, a statement, or not to answer questions, or not to assist the police in their enquiries,

- (ii) 應准許在押人士或和警方在一起並接受調查的人士在與警務人員進行任何會面時均可有律師或大律師在場提供意見。
- (iii) 如果一名律師或大律師聲稱受第三者委託，代表一名在押人士或和警方在一起並接受調查的人士辦理事務，警方應准許他與該在押人士獨自聯絡，除非該在押人士在只有該聲稱受託代表他的律師及一名不低於督察級的獨立人員或一名警長（如找不到一名督察的話）在場的情形下，表明自己不願意與該律師進行商討。
- (iv) 應把在押人士或和警方在一起並接受調查的人士的信件以郵政或其他最少耽擱的方式寄遞。
- (v) 一名曾作出警誡口供或經警誡後回答問話的人士有權獲得有關口供或會面紀錄的副本。此等副本須在每次會面之後盡快提供，除非這樣做有可能對執法造成阻礙。

如果決定拒絕把警誡口供或會面紀錄副本給予一名人士，必須把這項決定的原因詳細地記錄在拘留紀錄或負責調查人員的記事冊上。在這種情況下，若未能提供有關的警誡口供或會面紀錄副本，便不應再向該人士錄取進一步口供或安排進一步會面。但一旦有關人士已被落案起訴，便不應再拒絕給予警誡口供或會面紀錄副本。拒絕把警誡口供或會面紀錄副本給予一名人士是一件嚴重的事情，這樣做可能會在其後的審訊中被查究。

- (b) 一名警務人員如有合理理由認為，准許一名在押人士或和警方在一起並接受調查的人士與一名律師或大律師聯絡即有可能對調查過程或執法造成不合理的延誤或阻礙，才可以阻延或阻止他們與對方聯絡。該律師或大律師可能會建議有

should not in itself be treated by a police officer as a ground for delaying or preventing communication between the solicitor or barrister and that person.

- (c) A person in custody, or present with the police and under investigation by them, should be supplied on request with writing materials.
- (d) A person in custody, or present with the police and under investigation by them, should be informed of his rights and the facilities available to him, and in addition notices describing them should be displayed at convenient and conspicuous places at police stations.

NOTE:

There are two distinct classes of persons who must be informed of their rights and the notification of these rights have different implications depending on which group the person belongs to.

At the police station, a bilingual notice (Pol 153 (Rev/2007)) detailing the rights contained in Direction 8 is available to be handed to both groups of persons to inform them of their rights. Besides, a bilingual notice in poster size detailing the same is also on display in all police station cellblocks and interview rooms.

Those IN CUSTODY

The rights of this group have been limited by the fact that they no longer have the right to choose to leave if they so desire. They are effectively under arrest although they may not have been specifically informed of this. As such, while they are entitled to the rights as listed in items (1) to (7) of the Notice without limitation, they may only have the additional rights set out in the remaining items (8) to (18) provided that no unreasonable delay or hindrance to the process of investigation or the administration of justice is likely to be caused.

Where the officer in charge of a case or the Custody Officer decides that **FOR A PERSON IN CUSTODY** such a delay or hindrance is reasonably likely, and therefore that he will not allow these rights to be exercised, he must record his reasons in his notebook and be prepared to justify this decision in any subsequent court case because of the serious way in which such a refusal is viewed.

In particular, it is set down that a person in custody is allowed to consult and communicate privately with a solicitor or barrister and that refusing to grant access just because that might make him stop answering questions or refuse to make a statement is not a proper justification. Depriving him of this

關人士不要作出口供或繼續作出口供、或不要回答問話、或不要協助警方進行調查，但這些都不能作為阻延或阻止律師或大律師與有關人士聯絡的理由。

- (c) 警方須應在押人士或和警方在一起並接受調查的人士的要求，提供書寫工具。
- (d) 應該告知在押人士或和警方在一起並接受調查的人士他的權利和所能獲得的方便。此外，更須把說明此等權利和方便的通告張貼於警署內適當及顯眼的地方。

註：

我們必須告知兩類特別人士他們可以享有的權利，即在押人士與非在押人士。視乎這些人士所屬的類別，此等權利有不同的含意。

所有警署的羈留室和會見室內，均張貼有雙語海報，詳列指示第8條所包括的各種權利。此外警署內亦備有一份雙語通告 (Pol 153 (Rev/2007))，供派發予該兩類人士，通知他們所享有的權利。

在押人士

此類別人士可行使的權利有所限制。即使他們意欲離去，亦沒有選擇的權利。在某些情況下他們未必會收到明確的通知，但實際上他們已經被拘捕。因此，在押人士可以在沒有任何限制下享有通告上列於第(1)至(7)項的權利，唯對於第(8)至(18)項的額外權利，則只可以在『對調查過程或執法沒有造成不合理的延誤或阻礙』的情況下，才可行使。

當案件主管或看守人員因有合理理由相信可能造成延誤或阻礙而決定不准許在押人士行使這些權利，他必須把這項決定的原因記錄在其記事冊上。由於拒絕在押人士行使這些權利被視為十分嚴重的事情，他亦須準備在日後的審訊中提供充分理由支持其決定。

通告特別訂明應准許在押人士獨自諮詢及聯絡律師或大律師，只因為在押人士可能不再回答問話或拒絕作出口供而不批准他與律師或大律師聯絡並非適當理由。剝奪他此項權利是極為重要的決定。拒絕被扣押人士與律師聯絡以便錄取口供的人員不

right is a very serious step and an officer who makes the decision to refuse his prisoner access to legal counsel so as to get a statement must not only be prepared to justify this decision in court but recognize that it may be used by the defence to argue that any statement made was not voluntary and should be excluded from the evidence in the case.

It can be seen to be a particularly serious issue as it is brought out again in even stronger terms in Direction 8(b).

Direction 8(a)(i) allows a person to telephone his friends so that he may inform them of his whereabouts. For practical purposes **FOR A PERSON IN CUSTODY** there must be a limit to the number of any such telephone calls. An officer would be justified in refusing a person to make such telephone calls if there were grounds for believing that the person was going to alert accomplices or arrange the disposal of exhibits etc. Reasons for refusal to permit telephone calls should be recorded in the notebook of the officer making the decision and he must be prepared to justify this decision in any subsequent court case.

Direction 8(a)(ii) permits any person to have his solicitor or barrister present during any interview with a police officer. Law clerks have no right of access during an interview and their presence will be at the discretion of the OC case.

If a person in custody states that he does not wish to consult a solicitor or barrister instructed by a third party, he must confirm this decision in the presence of only that solicitor or barrister and an independent officer in accordance with Direction 8(a)(iii). The independent officer must be unconnected with the investigation and will normally be the Duty Officer.

Direction 8(a)(iv) allows a person in custody to write letters and 8(c) ensures he has the writing materials to do so. Although such letter writing is likely to be rare, officers should be alert to the possibility that the person will attempt to communicate with accomplices who are still at large. Unless the person has no money whatsoever, he is expected to pay his own postage. Such payments should be properly recorded and also the details of any posting of letters.

Direction 8(a)(v) provides that a person who has made a cautioned statement or answered questions under caution is entitled to a copy of the statement or record of interview as soon as possible after each interview. That does not mean that you have to wait for a translation because the statement **WILL** have been recorded in the language used by the person being interviewed. Where there is any delay in the provision of such a copy, the reasons for the delay must be recorded in the notebook of the officer authorizing the delay.

但須準備在法庭提供充分理由支持其決定，而且須確知辯方可能以此理由爭辯任何所作口供均非自願及應不被接納為證據。

因為此事項曾以更強烈字句在指示 **8(b)** 再次提出，所以應視為特別重要。

指示 **8(a)(i)** 准許一名人士打電話通知朋友他在何處地方。就實際的目的而言，必須限制在押人士打此類電話的次數。倘若人員有理由相信該名人士將會警告從犯或安排處置證物等而拒絕讓他打此類電話，該人員的做法具有正當理由。人員應把拒絕准許打電話的原因記錄在其記事冊上，並準備在日後的審訊中提供充分理由支持其決定。

指示 **8(a)(ii)** 准許任何人士在與警務人員進行任何會面時均可有其律師或大律師在場。律師行文員無權在會面進行時在場，案件主管可酌情決定是否准許律師行文員在場。

如果在押人士表示不欲會見受第三者委託的律師或大律師，遵照指示 **8(a)(iii)**，他須在只有該律師或大律師及一名獨立人員在場的情形下確認其決定。該獨立人員必須與調查無關及通常會是值日官。

指示 **8(a)(iv)** 及 **8(c)** 准許在押人士寫信及確保他獲提供書寫工具。雖然在押人士要求寫信的情況並不常見，但警務人員須保持警覺，提防在押人士通過寫信與仍在逃的從犯聯絡。除非該名在押人士沒有錢，否則他應支付郵費。郵費及有關寄出信件的詳情應妥善記錄下來。

指示 **8(a)(v)** 訂明一名曾在警誡後作供或回答問題的人士有權在每次會面結束後，盡快取得有關口供或會面紀錄的副本。你未必需要等候翻譯工作完成，因為該份口供應已以該名接受會見人士所用的語言記錄下來。如在提供口供上有所延遲，必須在批准延遲的人員的記事冊上記錄引致延遲的原因。

Those **NOT IN CUSTODY**

If the person is **NOT IN CUSTODY**, he can walk out of the station and make any calls he wishes. His rights are absolute and are not subject to the condition concerning unreasonable delay or hindrance to the processes of investigation or the administration of justice.

Thus persons under investigation by police have all rights of a citizen as detailed in items (4) – (18) listed on the Notice, and are able to leave at any time. No limits are placed on these rights. It should be noted that the rights at items (1) – (3) of the Notice are not applicable to this category of persons.

非在押人士

如果該人士並非在押，他可以離開警署及打任何電話。他享有的權利並無任何附帶條件，亦不受有關『對調查過程或執法造成不合理的延誤或阻礙』的條件所規限。

因此，接受警方調查的人士擁有詳列於通告上第 (4) 至 (18) 項的所有公民權利，該等人士亦可隨時離去。這些權利對非在押人士並無任何限制。至於通告上所列的第 (1) 至 (3) 項，並不適用於非在押人士。

DEFINITIONS

“consult privately”

This means to consult so that others do not know what is taking place. If visual surveillance compromises privacy it is in breach of the Rules. However, there could be security or other reasons that make visual observation necessary;

“solicitor or barrister”

This means what it says. It does not mean solicitor’s clerks. In general law clerks may accompany solicitors or barristers to interview prisoners for the purpose of seeking instructions, for example, where the solicitor or barrister does not speak the language of the person in custody. For details, please see FPM Ch. 49-20.

“Visits to and Communication with Detained Persons and Prisoners”

FPM Ch. 49-20 sets out the conditions under which access requests for solicitors, solicitor trainees and barristers (who may be accompanied by a clerk) to persons in custody may be followed.

“in custody”

A person is regarded as being in custody when it is the intention of the officer to prevent the departure of that person. This situation frequently occurs before the formal arrest of a suspect and the suspect may not have been informed.

“present / with the police and under investigation by / them”

This deals with persons who fall into the “grey” area where they are not in custody and there is no intention to prevent their departure but there is a suspicion of criminal involvement, hence they are under investigation.

They may be “present with the police” in, or outside, police premises.

“person in authority”

A “person in authority” will always include a law enforcement officer. It might include, depending on the circumstances an employer, teacher, parent or other person.

定義

「獨自諮詢」

「獨自諮詢」一詞指其他人均不知道諮詢內容，如監察有損獨自諮詢，則違反此原則，但有時會因保安或其他理由而有需要監察。

「律師或大律師」

律師或大律師的定義和字面意義一樣，並不是指律師行文員。在一般情況下，律師行文員可陪同律師或大律師會見在押人士以取得指示，例如是在律師或大律師並不通曉在押人士所操語言的情況下（詳情請參閱警察程序手冊第 49-20 章）。

「探望及與被扣留人士或犯人聯絡」

警察程序手冊第 49-20 章列明了有關律師、見習律師、或大律師要求會見被扣留人士的程序。

「在押」

當人員意圖阻止該人離開，該人便視作為被拘留，這情況在正式拘捕疑犯之前經常發生，而未必會通知疑犯。

「和警方在一起並接受警方調查的人士」

這類人士的身分屬灰色地帶。他們並非在押人士，而警方並沒有意圖阻止他們離開。但由於他們有參與罪行的嫌疑，故須接受調查。

此類「和警方在一起」的人士所處的地方可能是警察建築物或以外的地方。

「有權力的人」

「有權力的人」通常包括執法人員，亦可能包括僱主、教師、父母或其他人士，這視乎情況而定。

"Notice"

Pol 153 (Rev/2007)

Remarks: It should be noted that Pol 153 (Rev/2007) also deals with a category of persons known as "Persons Detained in Custody of the Police on the Order of a Magistrate". This category of persons however has nothing to do with the Rules and Directions in the Questioning of Suspects and Taking of Statements gazetted in Oct 1992.

「通告」

指 Pol. 153 (Rev/2007)

備註：人員應注意，**Pol 153 (Rev/2007)** 亦適用於一類稱為「由裁判官下令還押警方看管的人士」。然而，這類別人士與 1992 年 10 月在憲報刊登的「查問疑犯及錄取口供的規則及指示」無關。

(PERSONAL DATA)

NOTICE TO PERSONS UNDER INVESTIGATION BY, OR DETAINED IN THE CUSTODY OF, THE POLICE

YOUR RIGHTS

1. request to have your arrest/detention notified to the consulate of your home country in Hong Kong or, if there is no consular representation in Hong Kong, the authorities in your home country [Note: For foreign nationals (EXCLUDING Mainland residents) ONLY];
2. request that a friend or relative be notified of your detention;
3. be supplied with adequate food and refreshment free of charge;
4. request to be provided with drinking water;
5. request to receive medical attention should you feel ill;
6. request to be provided with a list of solicitors;
7. request to be released on bail (or to be released if under investigation);
8. make telephone calls, send e-mail or faxes to friends or relatives;
9. make private telephone calls to, or communicate in writing or in person with, a solicitor or barrister;
10. have a solicitor or barrister present during any interview with the police;
11. communicate privately with a solicitor or barrister claiming to have been instructed by a third person on your behalf;
12. refuse to communicate with a solicitor or barrister claiming to have been instructed by a third person on your behalf;
13. request to be provided with a supply of writing materials;
14. request to have letters posted or delivered as soon as practicable, at your own expense;
15. be supplied with a copy of your cautioned statement(s) or questions and answers under caution as soon as practicable after the interview;
16. refuse to answer subsequent questions until a copy of the cautioned statement(s) or questions and answers under caution have been provided to you;
17. request to be provided with food/refreshment at your own expense – for persons detained in custody (I & II) this will be subject to the approval of the officer in charge of the police station and the inspection of such food; and
18. send a telegram at your own expense.

Note: Original of this Notice to be retained by the OC Case as an exhibit.

(個人資料)

發給接受警方調查的人士或被警方羈留的人士的通知

你的權利

1. 要求通知你國家的駐港領事館你已被拘捕/羈留，如沒有駐港領事館，則通知你國家的有關當局 [注意：只適用於外國公民（中國公民除外）]；
2. 要求通知一名朋友或親屬你被羈留；
3. 獲免費提供足夠食物及茶點；
4. 要求獲提供食水；
5. 如感不適要求看病；
6. 要求獲提供律師名單；
7. 要求保釋出外（或如是接受調查完畢，要求離開）；
8. 致電、發電子郵件或傳真予朋友或親屬；
9. 致電律師或大律師單獨通話，或用書面或親自與律師或大律師聯絡；
10. 與警方會見期間有律師或大律師在場；
11. 與聲稱是受第三者委託代表你的律師或大律師單獨會面；
12. 拒絕與聲稱是受第三者委託代表你的律師或大律師會面；
13. 要求提供書寫用具；
14. 要求盡快將你的信件寄出或送出(費用由你支付)；
15. 在會見後盡快獲得你的警誡供詞副本或在警誡下所記錄的問答副本；
16. 在獲得警誡供詞副本或在警誡下所記錄的問答副本前，拒絕再回答問題；
17. 要求獲提供由你支付費用的食物／茶點—對於被羈留的人士（第 I 類及第 II 類），要求須得警署負責人員批准，食物亦須經檢查；
18. 發電報（費用由你支付）；

註：本通知正本由案件主管保留作為証物。

☐ **I PERSONS DETAINED IN CUSTODY OF THE POLICE**

As a person who has been detained in the custody of the police, you are entitled to all the rights set out in paragraphs (1) to (7) opposite.

Provided that no unreasonable delay or hindrance is reasonably likely to be caused to the process of investigation or the administration of justice, you have the additional rights set out in the remaining paragraphs (8) to (18) opposite.

☐ **II PERSONS DETAINED IN CUSTODY OF THE POLICE
ON THE ORDER OF A MAGISTRATE**

As a person who has been detained in the custody of the police on the order of a magistrate or a court, you are entitled to all the rights as set out in paragraphs (1) to (6), (13), (14) and (18) opposite.

Provided that no unreasonable delay or hindrance is reasonably likely to be caused to the process of investigation or the administration of justice, you have the additional rights set out in the remaining paragraphs (8) to (12) and (15) to (17) opposite.

☐ **III PERSONS UNDER INVESTIGATION BY THE POLICE**

As a person under investigation by the police, you are entitled to full civil rights: these include, but are not limited to, all the rights set out in paragraphs (4) to (18) opposite.

FORMATION (REF. NO.)	_____
ISSUING OFFICER	_____
INTERPRETER'S NAME	_____
LANGUAGE/DIALECT	_____
DATE & TIME	_____
NAME OF RECIPIENT	_____
TYPE OF IDENTIFICATION	_____
DOCUMENT & NO. OF RECIPIENT	_____

I (*have read / have had read over to me) the opposite paragraphs as listed in section (* I / II / III) above and acknowledge receipt of a copy of this NOTICE at hours on (Date).

_____	_____	_____
(Recipient)	(Interpreter)	(Issuing Officer)
* Delete as appropriate	<input type="checkbox"/> Tick appropriate box	

(PERSONAL DATA)

☐ **第 I 類 被警方羈留的人士**

你是被警方羈留的人士，你有左頁第 (1) 至 (7) 項所載的權利。

只要不會對調查過程或司法公正造成不合理的延誤或妨礙，你亦可以行使左頁第 (8) 至 (18) 項所載的權利。

☐ **第 II 類 由裁判官下令還押警方看管的人士**

你是由裁判官或法院下令還押警方看管的人士，你有左頁第 (1) 至 (6)、(13)、(14) 及 (18) 項所載的權利。

只要不會對調查過程或司法公正造成不合理的延誤或妨礙，你亦可以行使左頁第 (8) 至 (12) 項及 (15) 至 (17) 項所載的權利。

☐ **第 III 類 接受警方調查的人士**

你是接受警方調查的人士，你有公民的一切權利，包括但不局限於左頁第(4)至(18)項所載的權利。

單位（檔案編號）	_____
發通知人員	_____
傳譯員姓名	_____
語言／方言	_____
日期及時間	_____
收通知人姓名	_____
收通知人身份證明文件 類別及號碼	_____

* 上文第（*I/II/III）部所指左頁各段落，* 我已閱讀/已由其他人向我覆讀，
我在 年 月 日 時簽收本通知一份。

(收通知人)

(傳譯員)

(發通知人員)

* 刪去不適用者 ☐ 在合適方格內加上 ✓ 號

(個人資料)

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